

Message

From: Spangler, Matthew [Spangler.Matthew@epa.gov]
Sent: 8/8/2019 6:37:48 PM
To: Wauters, Patrick [wauters.patrick@epa.gov]
CC: Laumann, Sara [Laumann.Sara@epa.gov]; Carrillo, Andrea [Carrillo.Andrea@epa.gov]; Law, Donald [Law.Donald@epa.gov]; Schramm, Daniel [Schramm.Daniel@epa.gov]
Subject: Coyote Station
Attachments: Coyote Creek dist court dismissal order.pdf

Patrick, in the course of reviewing the attached federal district court case on Coyote Creek Mine (for a different purpose), I re-discovered the following footnote on page 90 and figured I'd circulate this to make sure it's on everyone's radar as we move forward in our discussions with ND:

"For example, plaintiffs contend that defendant failed to disclose facts material to whether there was common control over both the Coyote Station and the Coyote Creek Mine. The material facts according to plaintiffs are that the Coyote Station has control over the Mine's capital expenditures and overall mining plan as indicated from excerpts from its coal sales agreement between the parties. However, the court's understanding is that there is no relationship in the corporate structures between the owners of the Coyote Station and the owners of the Mine and the rights of approval that the Coyote Station may have to approve budgets and an overall mining plan may only be for controlling the costs of coal, but not a grant of control over operation of the Mine. Anyone deciding this issue would need to review the entire contract."

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